



# House of Representatives

General Assembly

**File No. 801**

*January Session, 2007*

Substitute House Bill No. 6856

*House of Representatives, May 8, 2007*

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT ESTABLISHING A MUNICIPAL STORMWATER AUTHORITY PILOT PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2007*) (a) The Commissioner of  
2       Environmental Protection shall establish a municipal stormwater  
3       authority pilot program in three municipalities that are contiguous to  
4       the Connecticut River or Long Island Sound. A municipality may  
5       apply to the commissioner to participate in the pilot program in  
6       accordance with procedures prescribed by the commissioner. Any  
7       municipality that adjoins a municipality in the pilot program may  
8       apply to the commissioner to be included in the pilot program.

9       (b) On or before January 1, 2008, and annually thereafter, the  
10      commissioner shall submit a report to the joint standing committees of  
11      the General Assembly having cognizance of matters relating to  
12      planning and development and the environment on the status of the  
13      pilot program.

14       Sec. 2. (NEW) (*Effective October 1, 2007*) (a) Any municipality  
15 participating in the pilot program established pursuant to section 1 of  
16 this act may, by ordinance adopted by its legislative body, designate  
17 any existing board or commission or establish a new board or  
18 commission as the stormwater authority for such municipality. If a  
19 new board or commission is created, such municipality shall, by  
20 ordinance, determine the number of members thereof, their  
21 compensation, if any, whether such members shall be elected or  
22 appointed, the method of their appointment, if appointed, and  
23 removal and their terms of office, which shall be so arranged that not  
24 more than one-half of such terms shall expire within any one year.

25       (b) The purposes of the authority shall be to (1) develop a  
26 stormwater management program, including, but not limited to, a  
27 program for construction and postconstruction site runoff control,  
28 pollution prevention and the detection and elimination of discharges,  
29 and (2) provide public education and outreach in the municipality  
30 relating to stormwater management activities and to establish  
31 procedures for public participation. In accomplishing the purposes of  
32 this section the authority may plan, layout, acquire, construct,  
33 reconstruct, repair, maintain, supervise and manage stormwater  
34 control systems.

35       (c) The authority may adopt regulations to implement the  
36 stormwater management program.

37       (d) The authority may enter into contracts with any municipal or  
38 regional entity to accomplish the purposes of this section.

39       Sec. 3. (NEW) (*Effective October 1, 2007*) After approval by the  
40 Commissioner of Environmental Protection of remediation strategies  
41 in the municipal stormwater management program developed  
42 pursuant to subsection (b) of section 1 of this act, the stormwater  
43 authority of a municipality participating in the pilot program  
44 established pursuant to section 1 of this act may (1) levy and collect  
45 assessments upon the lands and buildings within its jurisdiction in the  
46 same manner as property taxes are levied and collected, and (2)

47 establish, revise and collect rates, fees, charges, penalties and  
48 assessments to provide for municipal stormwater management  
49 controls and stormwater management education and research. Any  
50 entity exempt from taxation under section 12-81 of the general statutes  
51 shall be exempt from payment of an assessment, rate, fee, charge or  
52 penalties imposed under this section.

53       Sec. 4. (NEW) (*Effective October 1, 2007*) The authority in a  
54 municipality participating in the pilot program established pursuant to  
55 section 1 of this act may elect to defray the cost thereof by issuing  
56 bonds or other evidences of debt, or from general taxation, special  
57 assessment or any combination thereof. If it elects to defray any part of  
58 such cost from special assessment, it may apportion and assess such  
59 part upon the lands and buildings in the municipality which, in its  
60 judgment, are especially benefited thereby, whether they abut on such  
61 stormwater systems or not, and upon the owners of such lands and  
62 buildings, subject to the right of appeal as provided in section 7-142 of  
63 the general statutes. Such assessment may include a proportionate  
64 share of any expenses incidental to the completion of such stormwater  
65 system, such as fees and expenses of attorneys, engineers, surveyors,  
66 superintendents or inspectors, the cost of any property purchased or  
67 acquired for such work, interest on securities, the cost of preparing  
68 maps, plans and specifications, and the cost of printing, publishing or  
69 serving advertisements or notices incidental thereto. The authority  
70 may divide the total territory to be benefited by any stormwater  
71 control system into sections and may levy assessments against the  
72 property benefited in each section separately. In assessing benefits  
73 against the property in any section, the authority may add to the cost  
74 of the part of the stormwater control system located in such section a  
75 proportionate share of the cost of any part of such system located  
76 outside the section which is useful for the operation or effectiveness of  
77 that part of such system within the section and of any of the other  
78 items of cost or expense enumerated in this section.

79       Sec. 5. (NEW) (*Effective October 1, 2007*) The Commissioner of  
80 Environmental Protection shall adopt regulations, in accordance with

81 the provisions of chapter 54 of the general statutes, to implement the  
82 provisions of sections 1 to 4, inclusive, of this act.

83 Sec. 6. (NEW) (*Effective October 1, 2007*) Notwithstanding the  
84 provisions of sections 22a-475 to 22a-483, inclusive, of the general  
85 statutes, the Commissioner of Environmental Protection may provide  
86 grants and loans, from any account in the Clean Water Fund, to  
87 municipalities or stormwater authorities, established pursuant to  
88 sections 1 to 4, inclusive, of this act, for the costs incurred for  
89 stormwater management programs in municipalities participating in  
90 the pilot program established pursuant to section 1 of this act.

91 Sec. 7. Section 7-339n of the general statutes is repealed and the  
92 following is substituted in lieu thereof (*Effective October 1, 2007*):

93 A special services district shall constitute a body politic and  
94 corporate and the ordinance establishing such a district shall confer  
95 upon such district such of the following powers as are provided in the  
96 ordinance: (a) To sue and be sued; (b) to acquire, hold and convey any  
97 estate, real or personal; (c) to contract; (d) to borrow money, provided  
98 any obligation incurred for this purpose shall be discharged in  
99 accordance with the provisions of the ordinance establishing such  
100 district not more than [one year] seven years after it was incurred, and  
101 such district may pledge any revenues to be received pursuant to  
102 section 7-339r against any such obligation; (e) to recommend to the  
103 legislative body of the municipality in which such district is located the  
104 imposition of a levy upon the taxable interests in real property within  
105 such district, the revenues from which may be used in carrying out any  
106 of the powers of such district; (f) to construct, own, operate and  
107 maintain public improvements; and (g) to provide, within such  
108 district, some or all of the other services which such municipality is  
109 authorized to provide therein, except that no such ordinance may  
110 confer upon any such district the power to provide elementary or  
111 secondary public education services, and provided further no such  
112 ordinance may confer upon any such district the power to provide  
113 services which are then being provided within any portion of the area

114 included in such district by any multitown body or authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	7-339n

**PD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 08 \$</b>	<b>FY 09 \$</b>
Department of Environmental Protection	SF /GF- Cost	See Below	See Below
Treasurer, Debt Serv.	GF - Cost	See Below	See Below

Note: SF=Special Fund (Non-appropriated); GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 08 \$</b>	<b>FY 09 \$</b>
Various Municipalities	See Below	See Below	See Below

### **Explanation**

The bill would require the Commissioner of the Department of Environmental Protection (DEP) to establish a municipal stormwater authority pilot program in 3 municipalities. Any municipality that adjoins a municipality in the program may apply to be included. It is also anticipated the DEP would incur additional administrative costs to establish the pilot program, increasing costs to the Clean Water Fund. It is estimated that any costs incurred by the Clean Water Fund for the pilots would reduce or divert funds from one municipal project to another. To the degree that increasing the uses of the DEP's Clean Water Fund causes the funds to be expended more rapidly than they otherwise would have been, there will be an increase in debt service costs in future years.

It is also estimated that the DEP would require additional resources estimated at \$50,000 - \$100, 000 to adopt the regulations required in the bill.

Extending from 1 to 7 years the amount of time that special services districts have to repay their debt obligations has no state fiscal impact

because such districts are municipal entities.

The bill enables a municipality to establish a stormwater authority. It is anticipated that any additional administrative costs would be handled within budgetary resources of the municipalities that choose to undertake this option.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 6856*****AN ACT ESTABLISHING A MUNICIPAL STORMWATER  
AUTHORITY PILOT PROGRAM.*****SUMMARY:**

This bill requires the Department of Environmental Protection (DEP) commissioner to create a pilot program allowing three municipalities to establish municipal stormwater authorities to (1) develop stormwater management programs and (2) educate the public about stormwater management activities. To be eligible, a municipality must be adjacent to Long Island Sound or the Connecticut River. The bill allows a town adjoining one of the three participating towns to be included in the pilot program, but it is not clear if this town can create its own stormwater authority, or participates in a stormwater project implemented by the original pilot town.

The bill authorizes a stormwater authority to adopt regulations to implement the program and to contract with municipal or regional entities to achieve its purposes. It authorizes the commissioner to provide grants and loans from the Clean Water Fund to participating towns or authorities for costs incurred for stormwater management programs, and requires DEP to adopt regulations implementing the bill.

It extends the length of time a special services district has to repay its debt obligations from one to seven years after it incurs them. It must discharge the debt according to the provisions of the ordinance that established it.

EFFECTIVE DATE: October 1, 2007



**STORMWATER AUTHORITIES*****Pilot Program***

The bill requires the DEP commissioner to create a municipal stormwater authority pilot program in three municipalities adjacent to Long Island Sound or the Connecticut River. Interested municipalities may apply to the commissioner according to procedure she prescribes. Any municipality adjoining a town taking part in the pilot program may apply to the commissioner to be included in the pilot program. It is not clear if the adjoining towns create their town stormwater authorities or take part jointly with the authority of one of the towns already participating.

The commissioner must report on the program's status by January 1, 2008, and annually thereafter, to the Environment and Planning and Development committees.

The bill allows the legislative body of a municipality participating in the pilot program to adopt an ordinance designating an existing board or commission as the authority, or to create a new authority. If a town creates a new authority, it must, by ordinance, decide

1. the number of members;
2. their compensation, if any;
3. whether they are elected or appointed;
4. if appointed, the method of their appointment;
5. the method of removal; and
6. their terms of office.

No more than half the members' terms may expire in any one year.

***Purposes and Powers***

The authority must develop a stormwater management program, including a program for construction and post-construction site runoff

control, pollution prevention, and the detection and elimination of discharges. It also must provide public education and outreach relating to stormwater management activities, and establish procedures for public participation. In carrying out its duties, the authority may plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, and manage stormwater control systems.

The commissioner must approve the authority's remediation strategies before the authority can levy and collect assessments.

### ***Assessment of Fees***

Once the commissioner has approved an authority's remediation strategies, the authority may levy and collect assessments on the land and buildings in its jurisdiction in the same way the town levies and collects property taxes. It also may establish, revise, and collect rates, fees, charges, penalties, and assessments to provide for stormwater management control, education, and research. But entities exempt from the property tax are exempt from these assessments, rates, fees, charges, and penalties.

### ***Special Assessments***

The authority may defray its costs by issuing bonds, collecting taxes, conducting special assessments, or a combination of these. If it chooses to defray its costs through special assessments, it may apportion and assess its costs on the owners of lands and buildings that the system especially benefits, whether or not the lands and buildings abut the system. These special assessments are subject to the same right of appeal as municipal public works assessments.

An assessment may include a proportionate share of project expenses incidental to a stormwater system, including:

1. fees and expenses of attorneys, engineers, surveyors, superintendents, or inspectors;
2. the cost of any property acquired;

3. interest on securities;
4. the costs of preparing maps, plans, and specifications; and
5. the costs of printing, publishing, or serving advertisements or notices.

The authority may divide the total area to be benefited into sections, and separately levy assessments against the property in each section. In assessing benefits against the property in any section, the authority may add to the cost of the part of the system located in the section a proportionate share of the cost of any part of the system located outside the section that helps in the operation or effectiveness of the system in the section. It may similarly apportion other costs and expenses the bill describes.

## **BACKGROUND**

### ***Special Services Districts***

Any municipality may establish, by ordinance, a district to preserve, enhance, protect, and develop the town's economic health in order to promote the economic and general welfare of its citizens and property owners (CGS § 7-339m et seq.). Although the statutes suggest that municipal officials start the formation process, the initiative usually comes from property owners who desire extra public services and are willing to pay for them through extra property taxes. Property owners elect a board of commissioners who set the budget and calculate the mill rate.

### ***Legislative History***

On April 17, the House referred the bill (File 422) to the Planning and Development Committee, which reported the substitute:

1. creating the pilot program,
2. limiting creation of stormwater authorities only to towns in the pilot program,
3. changing the way an authority can impose assessments,

4. eliminating a provision specifically allowing joint stormwater projects, and
5. extending the time special service districts have to repay debt obligations from one to seven years.

***Related Bill***

sHB 7370 creates and funds a stormwater innovation account in the Clean Water Fund.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable

Yea 26      Nay 5      (03/21/2007)

Planning and Development Committee

Joint Favorable Substitute

Yea 12      Nay 4      (04/20/2007)